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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,133	02/11/2004	Takehiro Horibe	023971-0379	2428
22428	7590	02/08/2005		
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER BENTON, JASON	
			ART UNIT 3747	PAPER NUMBER

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/775,133

**Applicant(s)**HORIBE ET AL. **Examiner**

Jason Benton

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 5, 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/11/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Eshleman et al.

The patent by Eshleman et al. (6,340,019) shows an apparatus for protecting a fuel system component disposed on an engine body in a vehicle. A protector (110) includes a first wall (upper portion of 110) and a second wall (lower portion of 110) connected with the first wall. The first and second walls extend toward the engine body (Fig. 5) and cooperate with each other to surround a fuel system component (140). The second wall has one end opposed to the engine body with a clearance. A first fastening member (130) fixes the first wall to the engine body.

A first boss (unlabeled) receives the first fastening member and has a seat. The first boss is provided on the engine body (Fig. 5). The first wall includes a fixed portion fixed to the seat of the first boss in an overlapping state through the first fastening member and an abutting portion offset from the fixed portion in an axial direction of the first fastening member and opposed to a circumferential side surface of the first boss with a clearance (Fig. 4).

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A first boss receives the first fastening member and has a seat. The first boss is provided on the engine body and the first wall includes a fixed portion fixed to the seat of the first boss in an overlapping state through the first fastening member and an abutting portion that is arranged so as to be displaced to an abutment position where the abutting portion abuts on a circumferential side surface of the first boss when a load is applied to the protector.

The fixed portion and the abutting portion are integrally formed by bending.

The fixed portion and the abutting portion are connected with each other in an overlapping state.

The engine body is connected with an intake manifold (150) arranged forward of the engine body in a fore-and-aft direction of the vehicle. The protector is arranged within a space defined between the intake manifold and the engine body.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Scollard et al.

The patent by Scollard et al. (6,341,595) shows a protector (130) including a first wall (lower portion, 112) and a second wall (134) extending toward the engine body and cooperating with each other to surround a fuel system component (154). The second wall has one end opposed to the engine body with a clearance. And a first fastening member (115) fixes the first wall to the engine body.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scollard et al. in view of Eshleman et al.

The patent by Scollard et al. does not specify the arrangement of the fuel line cover with respect to the air intake manifold and the engine body. The patent by Eshleman et al. (6,340,019) shows the fuel rail in a common V-type engine to be between the air intake manifold and the engine body. In view of Eshleman et al., it would have been obvious to anyone skilled in the art who wanted a convenient location for a covered fuel rail, to improve on Scollard et al. by fastening the covered fuel rail in a location between the air intake manifold and the engine body.

The patent by Scollard et al. further comprises a second fastening member (113) fixing the protector to the intake manifold.

***Allowable Subject Matter***

Claims 5, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Benton whose telephone number is (571) 272-4838. The examiner can normally be reached on flex.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JB

  
**Henry C. Yuen**  
Supervisory Patent Examiner  
Group 3700